

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department - Revision Petition filed Sri Jatotu Kommalu S/o Narsimlu and others R/o Gudelahad (V) Nallabelli (M) Waranagal District against the orders of Additional Agent to Govt., Eturunagaram, Waranagal Dist in case no LTR/ Appeal/4/05 dt 28.02.2006 - Rejected - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 1

Dated: 10-01-2019

Read the following:-

- 1) Proceedings of the Additional Agent to Government, Eturunagaram, Waranagal District LTR / Appeal/4/05 dt 28.02.2006.
- 2) Revision Petition filed by Sri Jatotu Kommalu, S/o Narsimlu and others R/o Gudelahad (V) Nallabelli (M) Waranagal District Dt:17.04.2006.
- 3) Govt.Memo.No .4195/LTR.2/2006, dt 22.06.2006.
- 4) AAG & PO, ITDA, Eturunagaram, Waranagal District Lr.C.No. 1706/M(SW)2006, dt. 25.04.2006.
- 5) Govt.Lr.No.4195/TW.LTR.2/2006, Dt:15.06.2017 & 19.012.2017.
- 6) Written arguments filed by the Petitioners dated 15.02.2018.

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ORDER

In the reference 2nd read above, Sri Jatotu Kommalu, S/o Narsimlu and others R/o Gudelahad (V), Nallabelli (M), Waranagal District have filed Revision Petition through their Counsel before the Government aggrieved by the orders of the Additional Agent to Government, Eturunagaram, Waranagal District in case no LTR / Appeal/4/05 dt 28.02.2006 issued in respect of that land to an extent of Ac. 4-08 gts. in Sy.No. 8/1 ABC and 11/BC in Rajupet Village.

2. In the reference 3rd read above, Government have granted Stay on the orders of Additional Agent to Government & Project Officer, ITDA, Eturunagaram, Waranagal District and the Collector, Waranagal and the Project Officer & Additional Agent to Government, Waranagal District were requested to furnish Para Wise Remarks and connected case records and in the reference 4th cited the Additional Agent to Government, Bhadrachalam, Waranagal District has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case furnished by the Petitioners are as follows:

- The orders passed by the both the Courts are bad in law and contrary to the material on record.
- The order passed by the Lower Appellate Court is liable to be set aside on the ground of violation of principles of natural justice as no reasons were assigned in dismissing the Appeal.
- The Lower Appellate Court failed to appreciate the grounds raised in the Appeal. The Lower Appellate Court did not decide the case on its merits and no reasons of whatsoever nature were assigned in dismissing the Appeal.
- The Court below ought to have seen that the petitioner has raised specific grounds in the Grounds of appeal stating inter-alia that the provisions of Regulation 1 of 1959 has no application since the land where the rice mill was constructed is not located in the schedule area.
- Further the Courts below ought to have seen that the transfer of land in favour of the petitioners is does not amount to in violation of provisions of Regulation 1 Of 1959. As such the proceedings initiated by the original authority viz., the 1st respondent the Special Deputy Collector(TW), Eturunagaram, Waranagal District is liable to be set aside.

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- Both the courts erred in appreciating the material on record and also failed to appreciate the contentions/Grounds raised by the petitioner and erroneously passed the ejectment order
- The Court below ought to have seen that the Sri Jototu Kommalu S/o Narsimlu, herein have purchased the land under registered Sale Deed during the year 1999 from T.Sudhakar and others and constructed a Rice Mill over it in the name and style of M/s. Hematha Paraboiied Pvt.Ltd., Rice Mill and running the same. The construction of a Rice Mill even in the schedule area does not amount to violation of Sec.3 of Regulation 1 of 1959. Thus the proceedings initiated by the Courts below are liable to be set aside.

4 The remarks of the Additional Agent to Government and the Project Officer, ITDA, Eturunagaram, Warangal District on the Revision Petition are as follows:

- In accordance with the Government orders, the industries setup in scheduled area, the benefit will be extended only to the scheduled tribes. In accordance with the provision of LTR 1959 as amended in 1970 section 3(1), the both the courts below or passed orders which is not bad in law and contrary to the material on record.
- The petitioner approached to the appellant authority i.e., M/s. Hematha Paraboiied Pvt., Ltd., Rice Mill, The appellate authority disposed the appeal after giving a reasonable opportunity in accordance with the provision of LTR 1959 as amended in 1970 section 3(1), dismissed and the authority of the passing order and stay appeal does not arise.
- That the Lower Appellate Court decided the case on it's demerits as long as their petition is contrary to the regulations, they do not have any valid right or title to continue in the possession of land.
- That the subject matter of the case situated in Scheduled Areas as such except the tribals, the non-tribals have no right to be in a possession of the land as per section 3(1) (A) (APSALT) Regulation Act 1 (1959) as amended by act 1/1970.
- Section 2(g) of A.P Scheduled Area Land Transfer Regulation 1959 as amended in 1970 transfer means Mortgage with or without possession, lease, sale, gift exchange or any other dealing with the immovable property. Not being a testamentary disposition and includes a change on such property or a contract relating to such property in respect of such mortgage, lease, sale gift exchange or other dealing.
- The Honorable Supreme Court in its Civil Appeal number 4601 and 4602 of 1997 with Civil Appeal number 4603 of 1997 decided on 11-7-1997 in "Samatha V/s State of A.P and others" clarified the word person denoted in Section 3(1) of regulations includes the state government. The State Government also stands to prohibit to transfer by way of lease or any form known to law.
- Therefore the petitioner violated the Land Transfer Regulation of assignment rules in force.
- The Special Deputy Collector(TW), Eturungaram after due enquiry decided that the Petitioners have violated the provision of Section 3(1) (b) and (4) of Regulation 1 of 1959 as amended in 1970, the Lower Appellate authority also upheld the order of the Special Deputy Collector(TW), Eturunagaram.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government, observed that:

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- Sri Jatotu Kommalu filed the Revision Petition aggrieved by the orders of the Additional Agent to Government, Eturunagaram in Procs. No:LTR/Appeal/4/2005 Dt:28.02.2006. Their contention / claim is that they have purchased the land to an extent of Ac 4-08 gts in S.No:8/1 ABC and 11/BC in Rajupet (v) vide doc.No1467,1468 & 1469 of 1999 of Sub Register, Narsampet and constructed a Rice mill.
- The Revision Petitioner no.1(Sri Jatotu Kommulu) is a tribe. He has not produced any documentary evidence to prove that he has purchased the side land.
- Further on verification it is found that:
 - Construction permission by Grampanchayath, Rajupet.
 - Certificate of Registration under Sec.5(b) of APGST Act 1957.
 - Certificate from Electricity dept.
 - A.P Scheduled commodities dealers License order 1982.
- All these documents have been obtained in the name of M/s Hematha Para-boiled Private Ltd. Rice Mill, represented by Sri.B.Sarvesham as Managing Partner, Sri.B.Sarvesham is Non Tribe. He has not produced any evidence to prove that the tribal Revision Petitioner has constructed the Rice Mill.
- Further at the time of final hearing on 30.12.2017 Sri B.Sarvesham has promised to file detailed written statement before 20.01.2018 along with documentary proof to establish that the Rice Mill is constructed by the tribe. But he has not submitted any written statement nor any documentary evidence to prove that the property belongs to Scheduled Tribe.
- Sri Jatotu Kommalu did not turn-up for hearing. He has not submitted any documentary evidence to prove that he has purchased the land in question with his own money and constructed the Rice Mill. It is beyond doubt established that Sri B. Sarvesham, Non tribe has purchased the land in the name of Benami Tribe and constructed the Rice mill. The fact is established from the partnership deed. He has purchased the land in the name of Tribe to over come to the problem of Land Transfer Regulation.

6. Government therefore after careful examination of the matter here by rejects the Revision Petition filed by Sri Jatotu Kommalu S/o Narsimlu R/o Gudepahad (V) Nallabelli (M) Waranagal District and Sri B. Sarvesham and upholds the orders of Additional Agent to Government In Procs.No.Appeal/04/2005,Dt 28.02.2006.

7. The Additional Agent to Government and Project Officer, ITDA, Warangal District shall take necessary further action accordingly. The original case records received in the reference 4th read above are returned herewith.

(BY ORDER AND IN THE NAME OF GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

Sri Jatotu Kommalu, S/o Narsimlu
R/o Gudepahad (V), Nallabelli (M), Waranagal District.
M/s Hematha Paraboled Private Limited Rice Mill,
Rep. by B.Sarvesham, Managing Partner,
R/o Narsampet Village & Mandal, Warangal District.
The Project Officer, ITDA and Additional Agent to Government,
Eturunagaram, Warangal District (w.e.)

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Copy to :

The Collector, Warangal District.

The Special Deputy Collector(TW Eturunagaram, Warangal District.
for information and necessary action.

The Mandal Revenue Officer,
Narsampet, Warangal District.

Mr.A.Prabhakar Rao, Advocate,
Seetha Towers, Street No.10, Himayathnagar, Hyderabad.

P.S to M(TW)/P.S. to Secretary(TW)
SF/SC

//FORWARDED :: BY ORDER//

SECTION OFFICER